

SENATE BILL 6
CONSTITUTIONAL AMENDMENT

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2003 Regular Session
3r0376

(PRE-FILED)

By: **Senator Giannetti**

Requested: November 12, 2002

Introduced and read first time: January 8, 2003

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Circuit Court Judges - Selection, Confirmation, and Tenure**

3 FOR the purpose of proposing amendments to the Constitution of Maryland relating
4 to the selection, confirmation, and tenure of judges of the circuit courts; altering
5 the method of filling vacancies in the office of a judge of a circuit court; providing
6 for confirmation elections of circuit court judges at certain intervals; setting the
7 terms of such judges; deleting certain references to the election of judges;
8 providing for the eligibility of members of the General Assembly for judicial
9 office; making interim provision for certain incumbent judges; clarifying the
10 inapplicability of certain provisions governing qualifications to judges of
11 orphans' courts; deleting an inoperative section pertaining to amendments of
12 sections on selection and tenure; deleting or correcting certain cross-references
13 made obsolete by the amendments in this Act; deleting obsolete references to
14 certain Baltimore City courts; and submitting this amendment to the qualified
15 voters of the State of Maryland for their adoption or rejection.

16 BY proposing an amendment to the Constitution of Maryland
17 Article IV - Judiciary Department
18 Section 2, 5, 11, 12, and 21

19 BY proposing a repeal of the Constitution of Maryland
20 Article IV - Judiciary Department
21 Section 3 and 21A

22 BY proposing an addition to the Constitution of Maryland
23 Article IV - Judiciary Department
24 Section 3

25 BY proposing an amendment to the Constitution of Maryland
26 Article XVII - Quadrennial Elections
27 Section 3

28 BY proposing an addition to the Constitution of Maryland

1 Article XVIII - Provisions of Limited Duration
2 Section 6

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
4 MARYLAND, (Three-fifths of all the members elected to each of the two Houses
5 concurring), That it be proposed that the Constitution of Maryland read as follows:

6 **Article IV - Judiciary Department**

7 2.

8 [The] EXCEPT FOR THE JUDGES OF THE ORPHANS' COURTS, THE Judges of all
9 of the said Courts shall be citizens of the State of Maryland, and qualified voters
10 under this Constitution, and shall have resided therein not less than five years, and
11 not less than six months next preceding their election, or appointment, as the case
12 may be, in the city, county, district, judicial circuit, intermediate appellate judicial
13 circuit or appellate judicial circuit for which they may be, respectively, elected or
14 appointed. They shall be not less than thirty years of age at the time of their [election
15 or] appointment, and shall be selected from those who have been admitted to practice
16 law in this State, and who are most distinguished for integrity, wisdom and sound
17 legal knowledge.

18 [3.

19 Except for the Judges of the District Court, the Judges of the several Courts
20 other than the Court of Appeals or any intermediate courts of appeal shall, subject to
21 the provisions of Section 5 of this Article of the Constitution, be elected in Baltimore
22 City and in each county, by the qualified voters of the city and of each county,
23 respectively, all of the said Judges to be elected at the general election to be held on
24 the Tuesday after the first Monday in November, as now provided for in the
25 Constitution. Each of the said Judges shall hold his office for the term of fifteen years
26 from the time of his election, and until his successor is elected and qualified, or until
27 he shall have attained the age of seventy years, whichever may first happen, and be
28 reeligible thereto until he shall have attained the age of seventy years, and not after.
29 In case of the inability of any of said Judges to discharge his duties with efficiency, by
30 reason of continued sickness, or of physical or mental infirmity, it shall be in the
31 power of the General Assembly, two-thirds of the members of each House concurring,
32 with the approval of the Governor to retire said Judge from office.]

33 3.

34 (A) A VACANCY IN THE OFFICE OF A JUDGE OF A CIRCUIT COURT, WHETHER
35 OCCASIONED BY THE DEATH, RESIGNATION, REMOVAL, RETIREMENT,
36 DISQUALIFICATION BY REASON OF AGE, OR REJECTION BY THE VOTERS OF AN
37 INCUMBENT, THE CREATION OF THE OFFICE OF JUDGE, OR OTHERWISE, SHALL BE
38 FILLED AS PROVIDED IN THIS SECTION.

39 (B) UPON THE OCCURRENCE OF A VACANCY, THE GOVERNOR SHALL APPOINT,
40 BY AND WITH THE ADVICE AND CONSENT OF THE SENATE, A PERSON DULY

1 QUALIFIED TO FILL THE OFFICE WHO SHALL HOLD THE OFFICE UNTIL THE
2 ELECTION FOR CONTINUANCE IN OFFICE AS PROVIDED IN SUBSECTION (C) OF THIS
3 SECTION.

4 (C) THE CONTINUANCE IN OFFICE OF A JUDGE OF A CIRCUIT COURT IS
5 SUBJECT TO CONFIRMATION BY THE REGISTERED VOTERS OF THE CITY OR COUNTY
6 FROM WHICH THE JUDGE WAS APPOINTED AT THE NEXT GENERAL ELECTION
7 FOLLOWING THE EXPIRATION OF 1 YEAR FROM THE DATE OF THE OCCURRENCE OF
8 THE VACANCY WHICH THE JUDGE WAS APPOINTED TO FILL, AND AT THE GENERAL
9 ELECTION NEXT OCCURRING 10 YEARS THEREAFTER.

10 (D) THE CONFIRMATION OF A JUDGE BY THE REGISTERED VOTERS AS
11 PROVIDED FOR IN SUBSECTION (C) OF THIS SECTION SHALL BE A VOTE FOR THE
12 JUDGE'S CONTINUATION IN OFFICE FOR A TERM OF 10 YEARS OR THE JUDGE'S
13 REMOVAL. THE JUDGE'S NAME SHALL BE ON THE APPROPRIATE BALLOT, WITHOUT
14 OPPOSITION, AND THE VOTERS SHALL VOTE FOR OR AGAINST CONTINUATION IN
15 OFFICE. IF THE VOTERS REJECT THE CONFIRMATION OF A JUDGE IN OFFICE, OR IF
16 THE VOTE IS TIED, THE OFFICE BECOMES VACANT 10 DAYS AFTER CERTIFICATION
17 OF THE ELECTION RETURNS.

18 (E) A CIRCUIT COURT JUDGE SHALL RETIRE WHEN THE JUDGE ATTAINS THE
19 AGE OF 70.

20 (F) A MEMBER OF THE GENERAL ASSEMBLY WHO IS OTHERWISE QUALIFIED
21 FOR APPOINTMENT TO JUDICIAL OFFICE IS NOT DISQUALIFIED BY REASON OF
22 MEMBERSHIP IN A GENERAL ASSEMBLY THAT PROPOSED OR ENACTED ANY
23 CONSTITUTIONAL AMENDMENT OR STATUTE AFFECTING THE METHOD OF
24 SELECTION, CONTINUANCE IN OFFICE, RETIREMENT, OR REMOVAL OF A JUDGE, THE
25 CREATION OR ABOLITION OF A COURT, AN INCREASE OR DECREASE IN THE NUMBER
26 OF JUDGES OF ANY COURT, OR AN INCREASE OR DECREASE IN THE SALARY,
27 PENSION, OR OTHER ALLOWANCES OF ANY JUDGE.

28 5.

29 [Upon every occurrence or recurrence of a vacancy through death, resignation,
30 removal, disqualification by reason of age or otherwise, or expiration of the term of
31 fifteen years of any judge of a circuit court, or creation of the office of any such judge,
32 or in any other way, the Governor shall appoint a person duly qualified to fill said
33 office, who shall hold the same until the election and qualification of his successor.
34 His successor shall be elected at the first biennial general election for Representatives
35 in Congress after the expiration of the term of fifteen years (if the vacancy occurred in
36 that way) or the first such general election after one year after the occurrence of the
37 vacancy in any other way than through expiration of such term.] Except in case of
38 reappointment of a judge upon expiration of [his] THE term of [fifteen years]
39 OFFICE, no person shall be appointed who will become disqualified by reason of age
40 and thereby unable to continue to hold office until the prescribed time when [his] A
41 successor would have been [elected] APPOINTED.

1 11.

2 The election for Judges, hereinbefore provided, and all elections for Clerks,
3 Registers of Wills, and other officers, provided in this Constitution, except State's
4 Attorneys, shall be [certified,] CERTIFIED and the returns [made,] MADE by the
5 Clerks of the Circuit Courts [of the Counties, and the Clerk of the Superior Court of
6 Baltimore City, respectively,] to the Governor, who shall issue commissions to the
7 different persons for the offices to which they shall have been, respectively, elected;
8 and in all such elections for officers other than judges of A CIRCUIT COURT OR an
9 appellate court, the person having the greatest number of [votes,] VOTES shall be
10 declared to be elected.

11 12.

12 In case of any contested election for Judges, Clerks of [the Courts of Law,]
13 COURTS, and Registers of Wills, the Governor shall send the returns to the House of
14 Delegates, which shall judge of the election and qualification of the candidates at such
15 election; and if the judgment shall be against the one who has been returned elected,
16 or the one who has been commissioned by the Governor, the House of Delegates shall
17 order a new election within thirty days.

18 21.

19 (a) Subject to the provisions of subsection (b) OF THIS SECTION, the General
20 Assembly shall determine by law the number of judges of the circuit court in each
21 county and circuit. These judges shall be selected in accordance with Sections 3 and 5
22 of this Article.

23 (b) There shall be at least four circuit court judges resident in each circuit, and
24 at least one circuit court judge shall be resident in each county. There shall be at least
25 two such judges resident in Anne Arundel County, at least three resident in Baltimore
26 County, at least four resident in Prince George's County, and at least five resident in
27 Montgomery County.

28 (c) The senior judge in length of service in each circuit shall be the chief judge
29 of the circuit. The other judges shall be associate judges.

30 (d) Except as otherwise provided by law, one judge shall constitute a quorum
31 for the transaction of any business.

32 (e) The terms of the circuit courts shall be determined by law.

33 [(f) A person is not ineligible for appointment or election as a judge because he
34 was a member of the General Assembly at a time when the number or salary of judges
35 were increased or decreased.]

36 [21A.

37 If the amendments to sections 3 and 21 of Article IV proposed by House Bill 972,
38 Senate Bill 390 (1976) and the amendments to those sections proposed by House Bill

1 1048 (1976) are ratified by the voters at the election in November 1976, the
2 amendments to those sections proposed in House Bill 972, Senate Bill 390 (1976)
3 shall take effect.]

4

Article XVII - Quadrennial Elections

5 3.

6 All State and county officers elected by qualified voters (except judges of the
7 Circuit Courts, [judges of the Supreme Bench of Baltimore City,] judges of the Court
8 of Appeals and judges of any intermediate courts of appeal) shall hold office for terms
9 of four years, and until their successors shall qualify.

10

Article XVIII - Provisions of Limited Duration

11 6.

12 (A) FOR THE PURPOSE OF IMPLEMENTING THE AMENDMENTS TO ARTICLE IV
13 OF THIS CONSTITUTION DEALING WITH THE SELECTION AND TENURE OF CIRCUIT
14 COURT JUDGES, THE FOLLOWING PROVISIONS SHALL GOVERN. IN ACCORDANCE
15 WITH ARTICLE XIV, § 1A OF THIS CONSTITUTION, THIS SECTION SHALL EXPIRE WHEN
16 ALL OF THE JUDGES OF THE CIRCUIT COURTS HAVE COMPLETED ALL OF THE TERMS
17 FOR WHICH THE JUDGES ARE RETAINED IN OFFICE UNDER SUBSECTIONS (B) AND (C)
18 OF THIS SECTION OR HAVE VACATED THEIR OFFICES FOR ANY REASON.

19 (B) EACH JUDGE OF A CIRCUIT COURT WHO IS IN OFFICE FOR AN ELECTED
20 TERM ON THE EFFECTIVE DATE OF THESE AMENDMENTS, UNLESS THE JUDGE DIES,
21 RESIGNS, RETIRES, OR IS OTHERWISE LAWFULLY REMOVED, SHALL CONTINUE IN
22 OFFICE UNTIL THE GENERAL ELECTIONS NEXT AFTER THE END OF THE ELECTED
23 TERM OR UNTIL THE JUDGE ATTAINS THE AGE OF 70, WHICHEVER OCCURS FIRST.
24 CONTINUANCE OF THE JUDGE IN OFFICE THEN IS SUBJECT TO THE PROVISIONS OF
25 ARTICLE IV, § 3(C) OF THIS CONSTITUTION, BUT IN NO EVENT SHALL ANY JUDGE
26 CONTINUE IN OFFICE AFTER ATTAINING THE AGE OF 70.

27 (C) EACH JUDGE OF A CIRCUIT COURT WHO IS IN OFFICE ON THE EFFECTIVE
28 DATE OF THESE AMENDMENTS, BUT WHO HAS NOT BEEN ELECTED TO THAT OFFICE
29 BY THE VOTERS, SHALL, WITHIN 15 DAYS AFTER THE EFFECTIVE DATE OF THESE
30 AMENDMENTS, BE REAPPOINTED TO THAT OFFICE. CONTINUANCE OF THE JUDGE IN
31 OFFICE THEN IS SUBJECT TO THE PROVISIONS OF ARTICLE IV, § 3(C) OF THIS
32 CONSTITUTION, BUT IN NO EVENT SHALL ANY JUDGE CONTINUE IN OFFICE AFTER
33 ATTAINING THE AGE OF 70.

34 SECTION 2. AND BE IT FURTHER ENACTED, That the General Assembly
35 determines that the amendment to the Constitution of Maryland proposed by this Act
36 affects multiple jurisdictions and that the provisions of Article XIV, Section 1 of the
37 Constitution concerning local approval of constitutional amendments do not apply.

38 SECTION 3. AND BE IT FURTHER ENACTED, That the foregoing section
39 proposed as an amendment to the Constitution of Maryland shall be submitted to the

1 legal and qualified voters of this State at the next general election to be held in
2 November, 2004 for their adoption or rejection in pursuance of directions contained in
3 Article XIV of the Constitution of this State. At that general election, the vote on this
4 proposed amendment to the Constitution shall be by ballot, and upon each ballot
5 there shall be printed the words "For the Constitutional Amendments" and "Against
6 the Constitutional Amendments," as now provided by law. Immediately after the
7 election, all returns shall be made to the Governor of the vote for and against the
8 proposed amendment, as directed by Article XIV of the Constitution, and further
9 proceedings had in accordance with Article XIV.